

1 **CAMPAIGN FUNDS RESTRICTIONS**
2 **FOR COUNTY AND LOCAL SCHOOL BOARD OFFICES**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Patrice M. Arent**

6 Senate Sponsor: Margaret Dayton

8 **LONG TITLE**

9 **General Description:**

10 This bill prohibits a personal use expenditure on a county and local school board level.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms; and
14 ▶ prohibits a county office candidate, county officer, local school board candidate, or
15 local school board member from making a personal use expenditure.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 ENACTS:

22 **17-16-201**, Utah Code Annotated 1953

23 **17-16-202**, Utah Code Annotated 1953

24 **17-16-203**, Utah Code Annotated 1953

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **17-16-201** is enacted to read:

28 **Part 2. Personal Use Expenditure**

29 **17-16-201.** **Title.**

30 This part is known as "Personal Use Expenditure."

31 Section 2. Section **17-16-202** is enacted to read:

32 **17-16-202. Definitions.**

33 As used in this part:

34 (1) (a) Except as provided in Subsection (1)(b), "contribution" means any of the
35 following when done for a political purpose:

36 (i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value
37 given to the filing entity;

38 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,
39 subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything
40 of value to the filing entity;

41 (iii) any transfer of funds from another reporting entity to the filing entity;

42 (iv) compensation paid by any person or reporting entity other than the filing entity for
43 personal services provided without charge to the filing entity;

44 (v) a loan made by a county office candidate or local school board candidate deposited
45 into the county office candidate's or local school board candidate's own campaign account; or

46 (vi) an in-kind contribution.

47 (b) "Contribution" does not include:

48 (i) services provided by an individual volunteering a portion or all of the individual's
49 time on behalf of the filing entity if the services are provided without compensation by the
50 filing entity or any other person;

51 (ii) money lent to the filing entity by a financial institution in the ordinary course of
52 business; or

53 (iii) goods or services provided for the benefit of a county office candidate or local
54 school board candidate at less than fair market value that are not authorized by or coordinated
55 with the county office candidate or the local school board candidate.

56 (2) "County office" means an office described in Section [17-53-101](#) that is required to
57 be filled by an election.

- 58 (3) "County office candidate" means an individual who:
59 (a) files a declaration of candidacy for a county office; or
60 (b) receives a contribution, makes an expenditure, or gives consent for any other person
61 to receive a contribution or make an expenditure to bring about the individual's nomination or
62 election to a county office.
63 (4) "County officer" means an individual who holds a county office.
64 (5) (a) Except as provided in Subsection (5)(b), "expenditure" means any of the
65 following made by a reporting entity or an agent of a reporting entity on behalf of the reporting
66 entity:
67 (i) any disbursement from contributions, receipts, or the separate bank account required
68 under Section [17-16-6.5](#);
69 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
70 or anything of value made for a political purpose;
71 (iii) an express, legally enforceable contract, promise, or agreement to make any
72 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
73 value for a political purpose;
74 (iv) compensation paid by a filing entity for personal services rendered by a person
75 without charge to a reporting entity;
76 (v) a transfer of funds between the filing entity and a county office candidate's, or a
77 local school board candidate's, personal campaign committee; or
78 (vi) goods or services provided by the filing entity to or for the benefit of another
79 reporting entity for a political purpose at less than fair market value.
80 (b) "Expenditure" does not include:
81 (i) services provided without compensation by an individual volunteering a portion or
82 all of the individual's time on behalf of a reporting entity;
83 (ii) money lent to a reporting entity by a financial institution in the ordinary course of
84 business; or
85 (iii) anything described in Subsection (5)(a) that is given by a reporting entity to a

86 candidate or officer in another state.

87 (6) "Filing entity" means:

88 (a) a county office candidate;

89 (b) a county officer;

90 (c) a local school board candidate;

91 (d) a local school board member; or

92 (e) a reporting entity that is required to meet a campaign finance disclosure

93 requirement adopted by a county in accordance with Section [17-16-6.5](#).

94 (7) "In-kind contribution" means anything of value, other than money, that is accepted

95 by or coordinated with a filing entity.

96 (8) "Local school board candidate" means an individual who:

97 (a) files a declaration of candidacy for local school board; or

98 (b) receives a contribution, makes an expenditure, or gives consent for any other person

99 to receive a contribution or make an expenditure to bring about the individual's nomination or

100 election to a local school board.

101 (9) (a) "Personal use expenditure" means an expenditure that:

102 (i) (A) is not excluded from the definition of personal use expenditure by Subsection

103 (9)(c); and

104 (B) primarily furthers a personal interest of a county office candidate, county officer,

105 local school board candidate, or a local school board member, or a member of a county office

106 candidate's, county officer's, local school board candidate's, or local school board member's

107 family; or

108 (ii) would cause the county office candidate, county officer, local school board

109 candidate, or local school board member to recognize the expenditure as taxable income under

110 federal law.

111 (b) "Personal use expenditure" includes:

112 (i) a mortgage, rent, utility, or vehicle payment;

113 (ii) a household food item or supply;

- 114 (iii) clothing, except for clothing:
- 115 (A) bearing the county office candidate's or local school board candidate's name or
- 116 campaign slogan or logo; and
- 117 (B) used in the county office candidate's or local school board member's campaign;
- 118 (iv) admission to a sporting, artistic, or recreational event or other form of
- 119 entertainment;
- 120 (v) dues, fees, or gratuities at a country club, health club, or recreational facility;
- 121 (vi) a salary payment made to:
- 122 (A) a county office candidate, county officer, local school board candidate, or local
- 123 school board member; or
- 124 (B) a person who has not provided a bona fide service to a county candidate, county
- 125 officer, local school board candidate, or local school board member;
- 126 (vii) a vacation;
- 127 (viii) a vehicle expense;
- 128 (ix) a meal expense;
- 129 (x) a travel expense;
- 130 (xi) payment of an administrative, civil, or criminal penalty;
- 131 (xii) satisfaction of a personal debt;
- 132 (xiii) a personal service, including the service of an attorney, accountant, physician, or
- 133 other professional person;
- 134 (xiv) a membership fee for a professional or service organization; and
- 135 (xv) a payment in excess of the fair market value of the item or service purchased.
- 136 (c) "Personal use expenditure" does not include an expenditure made:
- 137 (i) for a political purpose;
- 138 (ii) for candidacy for county office or local school board;
- 139 (iii) to fulfill a duty or activity of a county officer or local school board member;
- 140 (iv) for a donation to a registered political party;
- 141 (v) for a contribution to another candidate's campaign account, including sponsorship

142 of or attendance at an event, the primary purpose of which is to solicit a contribution for
143 another candidate's campaign account;
144 (vi) to return all or a portion of a contribution to a contributor;
145 (vii) for the following items, if made in connection with the candidacy for county
146 office or local school board, or an activity or duty of a county officer or local school board
147 member:
148 (A) a mileage allowance at the rate established by the political subdivision that
149 provides the mileage allowance;
150 (B) for motor fuel or special fuel, as defined in Section [59-13-102](#);
151 (C) a meal expense;
152 (D) a travel expense, including an expense incurred for airfare or a rental vehicle;
153 (E) a payment for a service provided by an attorney or accountant;
154 (F) a tuition payment or registration fee for participation in a meeting or conference;
155 (G) a gift;
156 (H) a payment for rent, utilities, a supply, or furnishings, in connection with an office
157 space;
158 (I) a booth at a meeting or event; or
159 (J) educational material;
160 (viii) to purchase or mail informational material, a survey, or a greeting card;
161 (ix) for a donation to a charitable organization, as defined in Section [13-22-2](#), including
162 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,
163 as defined in Section [13-22-2](#);
164 (x) to repay a loan a county office candidate or local school board candidate makes
165 from the candidate's personal account to the candidate's campaign account;
166 (xi) to pay membership dues to a national organization whose primary purpose is to
167 address general public policy;
168 (xii) for admission to or sponsorship of an event, the primary purpose of which is to
169 promote the social, educational, or economic well-being of the state or the county candidate's,

170 county officer's, local school board candidate's, or local school board member's community;

171 (xiii) for one or more guests of a county office candidate, county officer, local school
172 board candidate, or local school board member to attend an event, meeting, or conference
173 described in this Subsection (9)(c); or

174 (xiv) that is connected with the performance of an activity as a county office candidate
175 or local school board member, or an activity or duty of a county officer or local school board
176 member.

177 (10) "Political purpose" means an act done with the intent or in a way to influence or
178 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
179 against any candidate or a person seeking an office at any caucus, political convention, or
180 election.

181 (11) "Reporting entity":

182 (a) means the same as that term is defined in Subsection 20A-11-101(52); and

183 (b) includes a county office candidate, a county office candidate's personal campaign
184 committee, a county officer, a local school board candidate, a local school board candidate's
185 personal campaign committee, and a local school board member.

186 Section 3. Section 17-16-203 is enacted to read:

187 **17-16-203. Personal use expenditure -- Authorized and prohibited uses of**
188 **campaign funds -- Enforcement -- Penalties.**

189 (1) A county office candidate, county officer, local school board candidate, or local
190 school board member may not use money deposited into the separate bank account required
191 under Section 17-16-6.5 for:

192 (a) a personal use expenditure; or

193 (b) an expenditure prohibited by law.

194 (2) (a) A county clerk shall enforce this section prohibiting a personal use expenditure
195 by:

196 (i) evaluating a financial statement to identify a personal use expenditure; and

197 (ii) commencing an adjudicative proceeding in accordance with applicable county

198 ordinance or policy if the county clerk has probable cause to believe a county office candidate,
199 county officer, local school board candidate, or local school board member has made a personal
200 use expenditure.

201 (b) Following the proceeding, the county clerk may issue a signed order requiring a
202 county office candidate, county officer, local school board candidate, or local school board
203 member who has made a personal use expenditure to:

204 (i) remit an administrative penalty of an amount equal to 50% of the personal use
205 expenditure to the county clerk; and

206 (ii) deposit the amount of the personal use expenditure in the campaign account from
207 which the personal use expenditure was disbursed.

208 (c) The county clerk shall deposit money received under Subsection (2)(b)(i) into the
209 county's general fund.